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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/773,504

02/06/2004

Eric E. Aanenson

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28020

7590

10/30/2006

GRAY, PLANT, MOOTY, MOOTY & BENNETT, P.A.

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EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<p>Application No.</p> <p align="center">10/773,504</p>	<p>Applicant(s)</p> <p align="center">AANENSON ET AL.</p>	
	<p>Examiner</p> <p align="center">David J. Parsley</p>	<p>Art Unit</p> <p align="center">3643</p>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 18-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-28 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-15 and 18-24 is/are rejected.
- 7) ☒ Claim(s) 5 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **Detailed Action**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10-11-06 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15 and 19-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to whether the display lights described in line 6 of the claim are the same lights or different lights than the circular bank of display lights described in line 7 of the claim.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 12-14 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,250,650 to Fima in view of U.S. Patent No. 4,799,327 to Treon and U.S. Patent No. 4,727,674 to Garr.

Referring to claim 1, Fima discloses a lure body – at 20, a jacket – see at 12 and the outer edge of 46 in figures 1-2 where in figure 2 a jacket containing the top dorsal fins is formed on top of the body – at 20, installed over and substantially covering the body made of a light transmissive material and configured to visually resemble a bait attractive to a sport fish – see for example figures 1-4, the body including a housing with sidewalls made of a generally light-transmissive material – see at the interior of 20 and – at 44 and 46, and an interior space for accommodation of display lights – at 28,40, a first light source – at 38, installed in the housing parallel to an intended direction of travel of the lure through a body of water – see for example figures 1-4, and viewable through the sidewalls of the housing, a display light source – at 40, installed in the housing aft of the first linear light source and including an aft facing light source – at 40, a fiber optic bundle – at 48, having a first end connected inside the housing next to the aft light source – at 40 as seen in figures 3-4, so as to receive light from the aft light source, and a second end extending aft out of the housing to transmit light from the aft light source – see for

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example figures 1-4, a battery pack – at 50, installed in the housing and connected to the light sources – see for example figures 3-4, and an on/off switch – at 28-34, connected between the display lights and the battery pack to turn the display lights on and off – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima does not disclose the first light source is a linear bank of lights. Treon does disclose the first light source – see the sidewalls of the lure in figure 1, is a linear bank of lights – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the linear bank of lights of Treon, so as to allow for the light to be made more uniform along the length of the lure. Fima further does not disclose a circular bank of display lights installed in the housing aft of the first light sources. Garr does disclose a circular bank of display lights – at 3, in the housing – at 2, aft of the first lights – at 3 as seen in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the circular bank of display lights of Garr, so as to allow for the lure to be more attractive to fish.

Referring to claim 2, Fima as modified by Treon and Garr further discloses a second linear bank of lights parallel to the first bank – see for example figure 1 and column 4 lines 18-24 of Treon.

Referring to claims 3 and 12, Fima as modified by Treon and Garr further discloses at least one flasher module – at 28-50, connected to the lights operative to flash the lights on and off for the purpose of attracting fish – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claims 4 and 13, Fima as modified by Treon and Garr further discloses the flasher module is operative to sequentially flash lights of the light banks – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claim 6, Fima as modified by Treon and Garr further discloses the lights are light emitting diodes – see for example column 2 lines 40-51 of Fima and columns 3-4 of Garr.

Referring to claim 14, Fima as modified by Treon and Garr further disclose the flasher module – at 28-50, is connected to the first light – at 38, to sequentially flash the light – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima, and including a second flasher module – at the other end of 28-50, connected to the aft light – at 40, operative to sequentially flash the aft light – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claims 24, Fima discloses a lure body – at 20, a jacket – see at 12 and/or 46 in figures 1-2, installed on and substantially covering the body made of a translucent material and configured to visually resemble a bait attractive to a sport fish – see for example figures 1-4, the body including a housing with sidewalls – at the interior of 20 and/or 44 and 46, and an interior space for accommodation of display lights – at 28,40, a first light – at 38, installed in the housing parallel to an intended direction of travel of the lure through a body of water – see for example figures 1-4, and viewable through the sidewalls of the housing, a display light – at 40, installed in the housing aft of the first linear bank of lights and including an aft facing light – at 40, a fiber optic bundle – at 48, having a first end connected inside the housing next to the aft light – at 40 as seen in figures 3-4, so as to receive light from the aft light, and a second end extending aft out of the housing to transmit light from the aft light – see for example figures 1-4,

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a battery pack – at 50, installed in the housing and connected to the lights – see for example figures 3-4, and an on/off switch – at 28-34, connected between the display lights and the battery pack to turn the display lights on and off – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima further discloses at least one flasher module – at 28-50, connected to the lights operative to flash the lights on and off for the purpose of attracting fish – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima does not disclose the first light is a first and second linear bank of lights. Treon does disclose the first light – see the sidewalls of the lure in figure 1, is a first and second linear bank of lights – see for example figure 1 and column 4 lines 18-24. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the linear bank of lights of Treon, so as to allow for the light to be made more uniform along the length of the lure. Fima further does not disclose a circular bank of display light installed in the housing aft of the first lights. Garr does disclose a circular bank of display lights – at 3, in the housing – at 2, aft of the first lights – at 3 as seen in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the circular bank of display lights of Garr, so as to allow for the lure to be more attractive to fish.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon and Garr as applied to claim 4 above, and further in view of U.S. Patent No. 3,952,445 to Liebert. Fima as modified by Treon and Garr does not disclose a clear epoxy resin filling the interior space of the housing and encapsulating the items therein. Liebert does disclose a clear epoxy resin – at 10, filling the interior space of the housing – at 17 or 19, and encapsulating the items therein – see for example figures 3 and 5. Therefore it would have been obvious to one of

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ordinary skill in the art to take the device of Fima as modified by Treon and Garr and add the clear epoxy resin device of Liebert, so as to allow for the device to be more lifelike.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon and Garr as applied to claim 4 above, and further in view of U.S. Patent No. 4,175,348 to Ray. Fima as modified by Treon and Garr does not disclose the on/off switch is a magnetically actuated reed switch operable through the use of a magnet held exteriorly to the housing. Ray does disclose the on/off switch is a magnetically actuated reed switch – at 30, operable through the use of a magnet – at 34,36, held exteriorly to the housing – at 32 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Treon and Garr and add the reed switch of Ray, so as to allow for the device to have intermittent operation of the lights.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon and Garr as applied to claim 4 above, and further in view of U.S. Patent No. 4,516,350 to Malphrus. Fima as modified by Treon and Garr does not disclose the jacket is configured in the likeness of a squid. Malphrus does disclose the jacket – at 10-14, is configured in the likeness of a squid – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Treon and Garr and add the jacket in the likeness of a squid of Malphrus, so as to allow for the lure to be more attractive to fish.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon and Garr as applied to claim 4 above, and further in view of U.S. Patent No. 6,581,319 to West. Fima as modified by Treon and Garr does not disclose the battery pack includes a



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plurality of rechargeable batteries and a recharging circuit connected to the batteries and a recharging receptacle installed in the housing sidewalls. West does disclose the battery pack – at 26, includes a plurality of rechargeable batteries – see for example figures 1-2 and column 3 lines 48-60, and a recharging circuit connected to the batteries – see for example at 22-38 in figure 2, and a recharging receptacle installed in the housing sidewalls – see for example at 12-18 in figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Treon and Garr and add the rechargeable batteries of West, so as to allow for the device to be reusable for a long period of time.

Claims 15 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fima in view of Garr.

Referring to claim 15, Fima discloses a lure body – at 20, a jacket – see at 12 and 46 in figures 1-2, installed over and substantially covering the body made of a light transmissive material and configured to visually resemble a bait attractive to a sport fish – see for example figures 1-4, the body including a housing with sidewalls – at the interior of 20 or at 44 and 46 made of generally light transmissive, and an interior space for accommodation of display lights – at 28,40, a first light – at 38, installed in the housing parallel to an intended direction of travel of the lure through a body of water – see for example figures 1-4, and viewable through the sidewalls of the housing, a display light – at 40, installed in the housing aft of the first linear bank of lights and including an aft facing light – at 40, a fiber optic bundle – at 48, having a first end connected inside the housing next to the aft light – at 40 as seen in figures 3-4, so as to receive light from the aft light, and a second end extending aft out of the housing to transmit light from the aft light – see for example figures 1-4, a battery pack – at 50, installed in the

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housing and connected to the lights – see for example figures 3-4, and an on/off switch – at 28-34, connected between the display lights and the battery pack to turn the display lights on and off – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima does not disclose a circular bank of display light installed in the housing aft of the first lights. Garr does disclose a circular bank of display lights – at 3, in the housing – at 2, aft of the first lights – at 3 as seen in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the circular bank of display lights of Garr, so as to allow for the lure to be more attractive to fish. Fima as modified by Garr further discloses at least one electronic flasher module – at 28-50, connected to the lights operative to flash the lights on and off for the purpose of attracting fish – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima. Fima as modified by Garr further discloses the flasher module is operative to sequentially flash lights of the light banks – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claim 18, Fima as modified by Garr further discloses the lights are light emitting diodes – see for example column 2 lines 40-51 of Fima and columns 3-4 of Garr.

Referring to claim 19, Fima as modified by Garr further discloses the lights are green – see for example column 4 lines 55-62 of Garr.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Garr as applied to claim 19 above, and further in view of U.S. Patent No. 3,952,445 to Liebert. Fima as modified by Garr does not disclose a clear epoxy resin filling the interior space of the housing and encapsulating the items therein. Liebert does disclose a clear epoxy resin – at 10, filling the interior space of the housing – at 17 or 19, and encapsulating the items therein –

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see for example figures 3 and 5. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Garr and add the clear epoxy resin device of Liebert, so as to allow for the device to be more lifelike.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Garr as applied to claim 20 above, and further in view of U.S. Patent No. 4,175,348 to Ray. Fima as modified by Garr does not disclose the on/off switch is a magnetically actuated reed switch operable through the use of a magnet held exteriorly to the housing. Ray does disclose the on/off switch is a magnetically actuated reed switch – at 30, operable through the use of a magnet – at 34,36, held exteriorly to the housing – at 32 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Garr and add the reed switch of Ray, so as to allow for the device to have intermittent operation of the lights.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Garr and Liebert as applied to claim 20 above, and further in view of U.S. Patent No. 4,516,350 to Malphrus. Fima as modified by Garr does not disclose the jacket is configured in the likeness of a squid. Malphrus does disclose the jacket – at 10-14, is configured in the likeness of a squid – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Garr and Liebert and add the jacket in the likeness of a squid of Malphrus, so as to allow for the lure to be more attractive to fish.

***Allowable Subject Matter***

4. Claims 25-28 are allowed.

Claims 5 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

5. Regarding claim 1, the Fima reference US 4250650 discloses a body – at 20, having a jacket – at the outer textured surface of 12 as seen in figure 1, covering the body as seen in figures 1-4.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patent is disclosed to further show the state of the art with respect to recharging batteries of fishing lures:

U.S. Pat. No. 6,796,077 to Dupree et al. – shows recharging batteries of lure

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Parsley  
Patent Examiner  
Art Unit 3643